1950.

File No. B. Rents 150 (second Amendment)

Legal Department.

B BRANCH

Subject:—

L. A. Bill No. LIII of 1950

A Bill to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947

Bom. Act No. LIII of 1950

P.28
E

File No. B. Rents 150 (second Amendment.)

Gen. 194 e.

'798-B

Legal Department.

A requisite draft Bill is sent herewith

The Chief Presidency Magistrate of Bombay has made three orders under section 45(1) of the City of Bombay Police Act 1902 requiring the Municipal Commissioner for the City of Bombay to recover the amount of riot tax by addition to the general tax which shall be imposed and levied proportionaly to the assessment in all the Municipal Wards within the municipal limits of the City of Bombay.

The first order dated 15th November 1945 relates to the recovery of the riot tax to the extent of Rs 1.57653/-in respect of riots that took place between the 1st September 1945 to 31st October 1945.

The second order dated 15th November 1945 relates to the recovery of the amount of the riot tax to the extent of Rs. 26.67.007/- in respect of riots that took place between 1st February 1946 to 30th June 1946.

The third order dated 28th December 1945 relates to the recovery of the amount of the riot tax to the extent of Rs. 52.61.466-13-0 in respect of all riots that took place between 1st September 1946 to 31st December 1947.

In all the three orders quoted above the owners of the properties in the City of Bombay on relevant dates have been made liable to pay the December 1945 have been made liable to pay the riot tax. It is thus clear that the three amounts of the riot tax have been separately orders to be recovered. It is not clear from the papers whether the municipality has levied three different amounts in respect of three riots on the properties in the City of

Bombay

2457

K.S.R.

Bombay or a consolidated sum has been shown to be recoverable from the owners of the properties. This information i s necessary as the Bill provides that a tenant shall be deemed to be liable to pay the amount of the riot tax if he is or was in occupation of the premises in respect of which riot tax is payable by a landlord during the major part of the periodi of any riot. It is presumed that the intention is not that a tenant wherever residing in the City of Bombay should be made to pay the riot tax even though he has xk shifted his place of residence to any other premises in the City of Bombay. The intention appears to be that a person who was not in occupation of the premises of the Landlord at the relevant dates during which the riot took place from whom the riot tax has been recovered by the Municipality should not be made to pay his kxx share of riot tax to the landlord.

The Bill has been given retrospective effect with effect from the 2nd May 1950 on which date the Bombay Rents, Hotels and Lodging House Rates Control (Amendment Act 1950) (Bom. XVI of 1950) by which section 10B entitling the landlord to recover the riot tax from the tenants had been inserted, came into force.

The Bill will not have effect beyond the City of Bombay as section 10B of the Bill which is proposed to be amended applies to the City of Bombay alone. The subject-matter of the Bill mainly falls under entries 18 and 31 in List II in the Seventh Schedules to the Constitution. The Bill does not require any sanction or recommendation.

Sd/-K.G.P.
11-8

S.A.K.
1 20-7
4 copies

I have amended the draft Bill prepared by P.A. and put up the revised draft Bill a t pp. 103-105 Post.

Sd/-S.L.C.
14-6

Addl. Secy.

As directed by H.M.(Law). provision has been made in new sub-clause (4) for the deduction of the amount of the riot tax recovered from he tenant out of the amount of the rent due for the premises.

Sd/-J.R.D.
16-6

H.M.(Law)

S.A.K.
20-7
4 copies

Legal Department.

For the purpose in view it would not be possible to amend the notification. An amendment of the Act is necessary. A requisite draft Bill is sent herewith.

2. The provisions of existing sub-section (1) of section 6 seem sufficiently exhaustive and it is presumed that there is hardly any occasion to exercise the powers conferred by sub-section (1A) of the said section. Moreover, the validity of sub-section (1A) is not free from doubt. It has not, therefore, been included in the revised draft Bill.

3. Clause 6 of the draft Bill is intended to give retrospective effect to the legislation from the date on which the Bill will be published in the Gazette so that the landlords may not take undue advantage of the existing position till the legislation is passed. It is, however, not desirable to disturb pending proceedings or the decrees and orders already passed by the Courts before the Bill is published. Clause 7 contains the necessary saving provision for this purpose.

4. The Department may verify whether the description of the areas given in clauses 4 and 5 is in order.

5. The subject matter of the Bill mainly falls under entry 18 in List II in the Seventh Schedule to the Constitution. The Bill does not require any sanction or recommendation.

Sd/-J.R.Dharaadhar.
5-9

Additional Secretary to Government.

U.R. to L. and H.D.No. 12778, dated the 7th September 1950.

S.A.K.
20-7
4 copies

Legal Department.

Please see the linked case in which a draft Bill has been sent to the Department to cover the irregularities noticed in respect of certain areas in the Thana District. In view of the importance of the areas referred to in this file and the possibility of the notifications in respect of these areas being challenged in Courts, the Department should first obtain orders of the Minister in charge whether legislation is expedient and then send the papers to this Department with definite proposals for incorporation in the draft Bill already sent to the Department (cf. Instructions 22 and 23 under the Rules of Business.)

Sd/-

for Additional Secretary to Government.

U.O. to Labour and Housing Department , No. 12779, dated the 7th September 1950.

S.A.K.
20-7
4 copies

IMMEDIATE.

No.15955
Legal Department.
Bombay Castle. (Bombay No. 1) the 16th November 1950.

FROM

Shri J.R.Dharmadhar,
Additional Secretary to the Government of Bombay
Legal Department

To

The Secretary to the Governor of Bombay.

Subject:- The Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Bill, 1950.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to His Excellency the Governor the authentic copy of the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Bill, 1950, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 30th and the 31st October 1950, respectively.

2. The subject-matter of the Bill falls under entries 3.18 and 64 in List II and entries 6.7.13 and 46 in List III in the Seventh Schedule to the Constitution of India . As the provisions of the Bill are repugnant to the provisions of the Transfer of Property Act, 1882, and the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, which are the existing laws relating to entry 6 in the Concurrent Legislative list, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution.

S.A.K.
20-7
4 copies

3. I also forward herewith six copies of such of items

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	)	Nos. 1 and
2. Bill as read for the third time and passed by the Bombay Legislative Council	)	2 and
3. Extracts from the proceedings of the Bombay Legislative Assembly dated the 26th.27th. 28th and 30th October 1950 and of the Bombay Legislative Council dated the 31st October 1950.	)	two copies of

Item No. 3 of the papers noted in the margin. The Bill was not referred to a Select Committee.

4. I am to state that there are many cases pending in Courts and that the landlords in some of the areas are taking advantage of the situation that the Act has ceased to apply to residential and other premises in their areas. It is necessary that this Bill should. after receiving the assent of the President, be published in the Bombay Government Gazette as an Act as early as possible. The State Government would then be in a position to take the necessary action to meet the situation. It is, therefore, requested that the President may be moved to give his assent to the Bill as soon as possible and to convey the assent by telegram as the new Act must come into force immediately and also to communicate the date on which the assent is given .

Yours faithfully.

Sd/-J.R.Dhuranadhar.
15-11

Additional Secretary to Government.

Through :
The Secretary to the Government of Bombay
Labour and Housing Department.

S.A.K.
20-7
4 copies

No. G.S. 3478

FROM

THE SECRETARY TO THE GOVERNOR OF BOMBAY.

TO

The Secretary to the Bombay Legislature Department,

Council Hall, Bombay.

GOVERNMENT HOUSE.

BOMBAY 6. November 17 1950.

Subject:- The Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Bill, 1950.

Sir,

With reference to the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Bill, 1950, which was passed by the Bombay Legislative Assembly and the Bombay Legislative Council on October 30 and 31, 1950, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the Chairman, that as the provisions of the Bill are repugnant to the provisions of the Transfer of Property Act, 1882, and the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, which are existing laws relating to entry 6 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution of India. His Excellency the Governor has accordingly been pleased, under article 200 of the Constitution, to declare that he reserves the Bill for the consideration of the President.

Yours faithfully,

Sd/- L.M.Nadkarni.

Secretary to the Governor of Bombay.

. . . . . .

No. G.S. 3479
Office of the Secretary to the Governor,
Government House, Bombay 6,
November 17, 1950.

Copy forwarded with compliments for information to:-

(1) The Additional Secretary to Government, Legal Department, with reference to his letter No. 15955, dated November 15, 1950.

(2) The Secretary to Government, Labour and Housing Department.

Sd/-

Secretary to the Governor.

S.A.K.
21-7
4 copies

No. G.B. 3757

FROM

THE SECRETARY TO THE GOVERNOR OF BOMBAY.

TO

The Additional Secretary to Government,
Legal Department.

GOVERNMENT HOUSE.

BOMBAY (6) December 11, 1950.

Subject: The Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Bill, 1950.

Sir,

In continuation of my letter No. G.S.-3732, dated December 9, 1950, I am directed to forward herewith the authentic copy of the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Bill, 1950, with the President's assent signified thereon.

Yours faithfully,

Sd/-

for Secretary to the Governor of Bombay.

S.A.K.
21-7
4 copies

ACTS.

Publication of the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1950.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 17563
Bombay Castle, 11th December 1950.

Letter to the Secretary to the Governor . No 15955. dated the 15th November 1950.

Letter from the Secretary to the Governor, No. G.S., & 3732. dated the 9th December 1950.

"With reference to the correspondence ending with your letter No. 17040, dated December 1, 1950, I am directed to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Rents, Hotel and Lodging House rates Control (Second Amendment) Bill, 1950, on December 7, 1950.

RESOLUTION: The Law should be published as Bombay Act No. LIII of 1950, in the Bombay Government Gazette dated the 11th December 1950.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devanagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Labour and Housing Department.

By order of the Governor of Bombay,

sd/- S.L.Chaudhari

Assistant Secretary to Government.

To

The Manager Government Central Press, Bombay (with a ~~xx~~ copy of the Act and with a request that 40 ~~xxx~~ Gazette copies of the Act may be forwarded to the Legal Department.),
The Labour and Housing Department.)
"The Oriental Translator to Government.) with a copy
The Bombay Legislature Department.) of the Act.
"The Director of Publicity, Bombay.)
The Enquiry Officer for the Secretariat, Bombay.)

. . . . . .

" With four extra copies of the Act.

S.A.K.
21-7
4 copies

Registered No. B-1

The
Bombay Government Gazette
PUBLISHED BY AUTHORITY
TUESDAY, 10TH OCTOBER 1950.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. LIII OF 1950.

A Bill to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

Bom. LVII of 1947.

WHEREAS it is expedient to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1950.

Bom. LVII of 1947.

Amendment of section 4 of Bom. LVII of 1947.

2. In section 4 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (hereinafter referred to as the said Act), in sub-section (2),

(*a*) for the words "shall not apply" the words "shall not, subject to such conditions and terms, as it may specify, apply generally" shall be substituted ; and

(*b*) after the words "charitable nature" the words "or to any particular premises or class of premises used for such purpose" shall be added.

Amendment of section 5 of Bom. LVII of 1947.

3. In section 5 of the said Act, after clause (*11*) the following shall be added, namely :—

" (*12*) ' tenement ' means a room or group of rooms rented or offered for rent for dwelling purposes as a unit. ".

Amendment of section 6 of Bom. LVII of 1947.

4. In section 6 of the said Act, in sub-section (*1*), the following proviso shall be added, namely :—

" Provided further that the State Government may by like notification direct that in any of the said areas this Part shall re-apply to premises let for such of the aforesaid purposes as may be specified in the notification."

Bom. LVII of 1947.

Amendment of section 10B of Bom. LVII of 1947.

5. In section 10B of the said Act,—

(1) In sub-section (*1*)—

(*a*) after the words " the tenants of the premises " the words, bracket and figure " liable to pay the same under sub-section (*3*) " shall be inserted ;

(*b*) for clause (*iv*) and the *Explanation* the following shall be substituted :—

" (*iv*) The amount of the riot tax to be recovered from each tenant shall bear the same proportion as the rent payable by him in respect of premises bears to the total amount of rent recoverable for the whole premises if let."

(2) After sub-section (*2*), the following shall be added :—

" (*3*) A tenant shall be liable to pay the amount of the riot tax if he is or was in occupation of the premises in respect of which the riot tax is payable by the landlord, on the date on which the riot took place or if the riot continued after that date during the greater part of the period of such riot. And a landlord of such premises shall be entitled to recover the amount of the riot tax from the tenant who is liable to pay the amount of riot tax under this section, notwithstanding that such tenant is not in occupation of the premises on the date on which such amount is recovered from the landlord by the Municipal Commissioner.

Explanation.—For the purposes of this sub-section, the date on which the riot took place or the period of the riot shall be the date or the period, as the case may be, which the State Government may by notification in the *Official Gazette* specify in this behalf.

(4) If the amount of the riot tax has already been wholly or partly recovered by a landlord before the date of the coming into force of the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1950,—

Bom. of 1950.

(*a*) from a tenant who is not liable to pay the same under sub-section (*3*) such tenant shall be entitled to the refund of the whole or part of the amount recovered from him by the landlord or to deduct the same from the amount of the rent due by him to the landlord in respect of the premises,

(*b*) from a tenant who is liable to pay the same under sub-section (*3*) and if such amount,—

(*i*) is greater than the amount which the landlord is entitled to recover from the tenant under sub-section (*3*) the tenant shall be entitled to the refund of or to deduct the excess amount from the rent or from the next instalment of the riot tax, if any, due to the landlord, or

(*ii*) is less than the amount which the landlord is entitled to recover from the tenant under sub-section (*3*), the landlord shall be entitled to recover the difference either by the addition to the rent or to the next

instalment of the riot tax, if any, due from the tenant or in any other lawful manner."

6. In section 13 of the said Act,— Amendment of section 13 of Bom. LVII of 1947.

(*1*) after clause (*h*) of sub-section (*1*), the following new clause shall be inserted, namely :—

"(*hh*) that the premises are reasonably and *bona fide* required by the landlord for the immediate purpose of demolishing them and such demolition is to be made for the purpose of erecting new residential building on the premises sought to be demolished ; or"

(*2*) after sub-section (*3*), the following sub-section shall be inserted, namely :—

"(*3A*) No decree for eviction shall be passed on the ground specified in clause (*hh*), unless the landlord gives an undertaking—

(*a*) that the new residential building to be erected by him shall contain not less than three times the number of tenements, and not less than three times the floor area, contained in the premises sought to be demolished ;

(*b*) that the work of demolishing the premises shall be commenced by him not later than one month, and shall be completed not later than three months, from the date he recovers possession thereof ; and

(*c*) that the work of erection of the new residential building shall be completed by him not later than fifteen months from the said date."

7. After section 17 of the said Act, the following new section shall be inserted, namely :— Insertion of new section 17A in Bom. LVII of 1947.

"17A (*1*) Where a decree for eviction has been passed by the Court on the ground specified in clause (*hh*) of sub-section (*1*) of section 13 and the work of demolishing the premises has not been commenced by the landlord within the period specified in clause (*b*) of sub-section (*3A*) of the said section, the tenant may give the landlord a notice of his intention to occupy the premises from which he has been evicted and if the landlord does not forthwith deliver to him the vacant possession of the premises on the same terms and conditions on which he occupied them immediately before the eviction, the tenant may make an application to the court within six weeks of the date on which he delivered vacant possession of the premises to the landlord. Recovery of possession for demolishing residential building.

(*2*) If the Court is satisfied that the landlord has not substantially commenced the work of demolishing the premises within the period of one month in accordance with his undertaking, the Court shall order the landlord to deliver to the tenant vacant possession of the premises on the terms and conditions on which he occupied them immediately before the eviction. On such order being made the landlord shall forthwith deliver vacant possession of the premises to the tenant. Such order shall be deemed to be an order within the meaning of clause (14) of section 2 of the Code of Civil Procedure, 1908. V of 1908.

(*3*) Any landlord who recovers possession on the ground specified in clause (*hh*) of sub-section (*1*) of section 13, and fails to carry out any undertaking referred to in clause (*a*), (*b*) or (*c*) of sub-section (*3A*) of the said section without any reasonable excuse or fails to comply with the order of the Court under

sub-section (*1*) shall, without prejudice to his liability in execution of the order under sub-section (*2*), on conviction be punishable with imprisonment for a term which may extend to three months or with fine or with both."

Amendment of section 47 of Bom. LVII of 1947.

8. In section 47 of the said Act, in sub-section (*1*) after the figures "17" the figures and letter "17A," shall be inserted.

Amendments made by section 5 to have retrospective effect.

9. The amendments effected by section 5 of this Act shall be deemed to have come into force with effect from the 2nd May 1950.

STATEMENT OF OBJECTS AND REASONS.

Existing sub-section (*2*) of section 4 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, does not empower Government to grant exemptions from the provisions of the Act in individual cases of Institutions whose premises are used for a public purpose of a charitable nature. This sub-section is, therefore, being amended to empower Government to grant exemptions in such individual cases as well as in a class of such cases or generally. Exemptions will be subject to such conditions as Government may impose in each case.

2. The proviso to sub-section (*1*) of section 6 of the Act empowers Government to withdraw the application of the Act from certain kinds of premises mentioned in that sub-section, when the premises are in the areas specified in Schedule I to the Act. Occasions are likely to arise, however, when, due to changed circumstances, it may become necessary for Government to reapply the Act to those kinds of premises in the same areas. As there is no provision at present in sub-section (*1*) of section 6 under which this can be done, an additional proviso is being added to this sub-section for this purpose.

3. Under the existing section 10-B of the Act, a landlord can recover proportionate riot tax from all his tenants irrespective of the fact whether or not such tenants were actually residing in his premises during the period of the riots. As the incidence of such tax is really meant to fall only on such tenants as were in actual occupation of the premises during the period or major portion of the period of such riots, section 10-B is being amended to secure this object. The existing basis, namely, floor-area-of-the-premises for computing the share of each tenant of the riot tax is also being changed to the new basis, namely, rent-of-the-premises as it is felt that the latter is the more equitable basis. Where tenants have already paid to their landlord their share of the riot tax in accordance with the provisions of the existing section 10-B, provision is now made for readjustments between the landlord and the tenants of the amounts so paid, if such readjustments are found to be necessary under the amended section 10-B.

4. There is no provision at present in the Act under which a landlord can recover vacant possession of his premises for the purposes of demolishing them and erecting in their place new larger premises. It is felt that the absence of such provision comes in the way of development of properties to the fullest extent, especially in cases where small structures stand in the middle of big plots of land. In order, therefore, to encourage the fullest development of all plots with a view ultimately

to providing the maximum number of tenements on them, a new clause is being inserted in sub-section (*1*) of section 13, for this purpose. At the same time, to prevent abuse of this right on the part of landlords, certain conditions are imposed before getting vacant possession of the premises, the non-fulfilment of which by the landlord would amount to a cognisable offence entailing the penalties of fine or imprisonment or both.

Dated the 9th October 1950. (Signed) JIVRAJ N. MEHTA.

By order of the Governor of Bombay,

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

Bombay, dated the 10th October 1950.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. LIII OF 1950.

A Bill to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

(As read for the third time and passed by the Legislative Assembly on the 30th October 1950.)

Bom. LVII of 1947.

WHEREAS it is expedient to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1950.

Amendment of section 4 of Bom. LVII of 1947.

Bom. LVII of 1947.

2. In section 4 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (hereinafter referred to as the said Act), in sub-section (2),—

(*a*) for the words "shall not apply" the words "shall not, subject to such conditions and terms, as it may specify, apply generally" shall be substituted; and

(*b*) after the words "charitable nature" the words "or to any particular premises or class of premises used for such purpose" shall be added.

Rev Bk Hb 354—1

Amendment of section 5 of Bom. LVII of 1947.

3. In section 5 of the said Act, after clause (*11*) the following shall be added, namely :—

" (*12*) ' tenement ' means a room or group of rooms rented or offered for rent as a unit.".

Amendment of section 6 of Bom. LVII of 1947.

4. In section 6 of the said Act, in sub section (*1*), the following proviso shall be added, namely :—

" Provided further that the State Government may by like notification direct that in any of the said areas this Part shall re-apply to premises let for such of the aforesaid purposes as may be specified in the notification.".

Amendment of section 10B of Bom. LVII of 1947.

5. In section 10B of the said Act,—

(1) in sub-section (*1*)—

(*a*) after the words " the tenants of the premises " the words, brackets and figure " liable to pay the same under sub-section (*3*) " shall be inserted ;

(*b*) for clause (*iv*) and the *Explanation* the following shall be substituted :—

"(*iv*) the amount of the riot tax to be recovered from each tenant shall bear the same proportion as the rent payable by him in respect of premises bears to the total amount of rent recoverable for the whole premises if let." ;

(2) after sub-section (*2*), the following shall be added :—

" (*3*) A tenant shall be liable to pay the amount of the riot tax if he is or was in occupation of the premises in respect of which the riot tax is payable by the landlord, on the date on which the riot took place or if the riot continued after that date during the greater part of the period of such riot. And a landlord of such premises shall be entitled to recover the amount of the riot tax from the tenant who is liable to pay the amount of riot tax under this section, notwithstanding that such tenant is not in occupation of the premises on the date on which such amount is recovered from the landlord by the Municipal Commissioner.

Explanation.—For the purposes of this sub-section, the date on which the riot took place or the period of the riot shall be the date or the period, as the case may be, which the State Government may by notification in the *Official Gazette* specify in this behalf.

(*4*) If the amount of the riot tax has already been wholly or partly recovered by a landlord before the date of the coming into force of the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1950,— Bom. of 1950.

(*a*) from a tenant who is not liable to pay the same under sub-section (*3*) such tenant shall be entitled to the refund of the whole or part of the amount recovered from him by the landlord or to deduct the same from the amount of the rent due by him to the landlord in respect of the premises,

(*b*) from a tenant who is liable to pay the same under sub-section (*3*) and if such amount,—

(*i*) is greater than the amount which the landlord is entitled to recover from the tenant under sub-section (*3*) the tenant shall be entitled to the refund of or to deduct the excess amount from the rent or from the next instalment of the riot tax, if any, due to the landlord, or

(*ii*) is less than the amount which the landlord is entitled to recover from the tenant under sub-section (*3*), the landlord shall be entitled to recover the difference either by the addition to the rent or to the next

instalment of the riot tax, if any, due from the tenant or in any other lawful manner.".

6. In section 13 of the said Act,— Amendment of section 13 of Bom. LVII of 1947.

(*1*) after clause (*h*) of sub-section (*1*), the following new clause shall be inserted, namely :—

"(*hh*) that the premises consist of not more than two floors and are reasonably and *bona fide* required by the landlord for the immediate purpose of demolishing them and such demolition is to be made for the purpose of erecting new building on the premises sought to be demolished ; or" ;

(*2*) In sub-section (*2*), to the Explanation the following proviso shall be added, namely :—

"Provided that nothing herein contained shall apply to the premises acquired by a trustee of a public charitable trust before the date on which the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1950, comes into force." ;

(*3*) after sub-section (*3*), the following sub-sections shall be inserted, namely :—

(*3A*) No decree for eviction shall be passed on the ground specified in clause (*hh*) of sub-section (*1*), unless the landlord produces at the time of the institution of the suit a certificate granted by the Tribunal under sub-section (*3B*) and gives an undertaking—

(*a*) that the new building to be erected by him shall contain not less than three times the number of residential tenements, and not less than three times the floor area, contained in the premises sought to be demolished ;

(*b*) that the work of demolishing the premises shall be commenced by him not later than one month, and shall be completed not later than three months, from the date he recovers possession of the entire premises ; and

(*c*) that the work of erection of the new building shall be completed by him not later than fifteen months from the said date.

(*3B*) (*a*) For the purposes of sub-section (*3A*), the State Government may from time to time constitute a Tribunal consisting of such persons and for such local area as it thinks fit.

(*b*) The Tribunal constituted under clause (*a*) may grant a certificate after being satisfied that—

(*i*) the plans and estimates for the new building have been properly prepared ;

(*ii*) such plans provide that the new building shall include tenements equivalent to the tenements which are proposed to be demolished. For the purpose of this paragraph, a tenement shall be deemed to be equivalent if the floor space of the tenement is not greater or less than the floor space of the corresponding tenement proposed to be demolished by more than ten per cent. ;

(*iii*) the necessary funds for the purpose of the erection of the new building are available with the landlord ; and

(*iv*) such other conditions as the State Government may by general or special order specify, have been satisfied.

(*c*) The proceedings before the Tribunal shall be in the manner as may be prescribed by rules made by the State Government in this behalf.".

STATEMENT OF OBJECTS AND REASONS.

Existing sub-section (2) of section 4 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, does not empower Government to grant exemptions from the provisions of the Act in individual cases of Institutions whose premises are used for a public purpose of a charitable nature. This sub-section is, therefore, being amended to empower Government to grant exemptions in such individual cases as well as in a class of such cases or generally. Exemptions will be subject to such conditions as Government may impose in each case.

2. The proviso to sub-section (1) of section 6 of the Act empowers Government to withdraw the application of the Act from certain kinds of premises mentioned in that sub-section, when the premises are in the areas specified in Schedule I to the Act. Occasions are likely to arise, however, when, due to changed circumstances, it may become necessary for Government to reapply the Act to those kinds of premises in the same areas. As there is no provision at present in sub-section (1) of section 6 under which this can be done, an additional proviso is being added to this sub-section for this purpose.

3. Under the existing section 10-B of the Act, a landlord can recover proportionate riot tax from all his tenants irrespective of the fact whether or not such tenants were actually residing in his premises during the period of the riots. As the incidence of such tax is really meant to fall only on such tenants as were in actual occupation of the premises during the period or major portion of the period of such riots, section 10-B is being amended to secure this object. The existing basis, namely, floor-area-of-the-premises for computing the share of each tenant of the riot tax is also being changed to the new basis, namely, rent-of-the-premises as it is felt that the latter is the more equitable basis. Where tenants have already paid to their landlord their share of the riot tax in accordance with the provisions of the existing section 10-B, provision is now made for readjustments between the landlord and the tenants of the amounts so paid, if such readjustments are found to be necessary under the amended section 10-B.

4. There is no provision at present in the Act under which a landlord can recover vacant possession of his premises for the purposes of demolishing them and erecting in their place new larger premises. It is felt that the absence of such provision comes in the way of development of properties to the fullest extent, especially in cases where small structures stand in the middle of big plots of land. In order, therefore, to encourage the fullest development of all plots with a view ultimately to providing the maximum number of tenements on them, a new clause is being inserted in sub-section (1) of section 13, for this purpose. At the same time, to prevent abuse of this right on the part of landlords, certain conditions are imposed before getting vacant possession of the premises, the non-fulfilment of which by the landlord would amount to a cognisable offence entailing the penalties of fine or imprisonment or both.

Dated the 9th October 1950. JIVRAJ N. MEHTA.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. LIII OF 1950.]

(As read for the third time and passed by the Legislative Assembly on the 30th October 1950.)

A Bill to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

[Dr. JIVRAJ N. MEHTA, M.L.A.]

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PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

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The following Act of the Bombay Legislature having been assented to by the President on the 7th December 1950 is hereby published for general information.

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. LIII OF 1950.

(First published, after having received the assent of the President, in the "Bombay Government Gazette" on the 11th December 1950.)

An Act to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

WHEREAS it is expedient to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Bom. LVII of 1947.

Short title. 1. This Act may be called the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1950.

Amendment of section 4 of Bom. LVII of 1947. 2. In section 4 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (hereinafter referred to as the said Act), in sub-section (2),—

Bom. LVII of 1947.

(*a*) for the words "shall not apply" the words "shall not, subject to such conditions and terms, as it may specify, apply generally" shall be substituted; and

(*b*) after the words "charitable nature" the words "or to any particular premises or class of premises used for such purpose" shall be added.

Amendment of section 5 of Bom. LVII of 1947.

3. In section 5 of the said Act, after clause (*11*) the following shall be added, namely :—

"(*12*) 'tenement' means a room or group of rooms rented or offered for rent as a unit.".

Amendment of section 6 of Bom. LVII of 1947.

4. In section 6 of the said Act, in sub-section (*1*), the following proviso shall be added, namely :—

"Provided further that the State Government may by like notification direct that in any of the said areas this Part shall re-apply to premises let for such of the aforesaid purposes as may be specified in the notification.".

Amendment of section 10B of Bom. LVII of 1947.

5. In section 10B of the said Act,—

(1) in sub-section (*1*)—

(*a*) after the words "the tenants of the premises" the words, brackets and figure "liable to pay the same under sub-section (*3*)" shall be inserted ;

(*b*) for clause (*iv*) and the *Explanation* the following shall be substituted :—

"(*iv*) the amount of the riot tax to be recovered from each tenant shall bear the same proportion as the rent payable by him in respect of premises bears to the total amount of rent recoverable for the whole premises if let." ;

(2) after sub-section (*2*), the following shall be added :—

"(*3*) A tenant shall be liable to pay the amount of the riot tax if he is or was in occupation of the premises in respect of which the riot tax is payable by the landlord, on the date on which the riot took place or if the riot continued after that date during the greater part of the period of such riot. And a landlord of such premises shall be entitled to recover the amount of the riot tax from the tenant who is liable to pay the amount of riot tax under this section, notwithstanding that such tenant is not in occupation of the premises on the date on which such amount is recovered from the landlord by the Municipal Commissioner.

Explanation.—For the purposes of this sub-section, the date on which the riot took place or the period of the riot shall be the date or the period, as the case may be, which the State Government may by notification in the *Official Gazette* specify in this behalf.

(*4*) If the amount of the riot tax has already been wholly or partly recovered by a landlord before the date of the coming into force of the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1950,—

(*a*) from a tenant who is not liable to pay the same under sub-section (*3*) such tenant shall be entitled to the refund of the whole or part of the amount recovered from him by the landlord or to deduct the same from the amount of the rent due by him to the landlord in respect of the premises,

(*b*) from a tenant who is liable to pay the same under sub-section (*3*) and if such amount,—

(*i*) is greater than the amount which the landlord is entitled to recover from the tenant under sub-section (*3*) the tenant shall be entitled to the refund of or to deduct the excess amount from the rent or from the next instalment of the riot tax, if any, due to the landlord, or

(*ii*) is less than the amount which the landlord is entitled to recover from the tenant under sub-section (*3*), the landlord shall be entitled to recover the difference either by the addition to the rent or to the next

instalment of the riot tax, if any, due from the tenant or in any other lawful manner.".

6. In section 13 of the said Act,— Amendment of section 13 of Bom. LVII of 1947.

(1) after clause (*h*) of sub-section (*1*), the following new clause shall be inserted, namely :—

"(*hh*) that the premises consist of not more than two floors and are reasonably and *bona fide* required by the landlord for the immediate purpose of demolishing them and such demolition is to be made for the purpose of erecting new building on the premises sought to be demolished ; or" ;

(2) in sub-section (*2*), to the Explanation the following proviso shall be added, namely :—

"Provided that nothing herein contained shall apply to the premises acquired by a trustee of a public charitable trust before the date on which the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1950, comes into force." ;

Bom. LIII of 1950.

(3) after sub-section (*3*), the following sub-sections shall be inserted, namely :—

"(*3A*) No decree for eviction shall be passed on the ground specified in clause (*hh*) of sub-section (*1*), unless the landlord produces at the time of the institution of the suit a certificate granted by the Tribunal under sub-section (*3B*) and gives an undertaking—

(*a*) that the new building to be erected by him shall contain not less than three times the number of residential tenements, and not less than three times the floor area, contained in the premises sought to be demolished ;

(*b*) that the work of demolishing the premises shall be commenced by him not later than one month, and shall be completed not later than three months, from the date he recovers possession of the entire premises ; and

(*c*) that the work of erection of the new building shall be completed by him not later than fifteen months from the said date.

(*3B*) (*a*) For the purposes of sub-section (*3A*), the State Government may from time to time constitute a Tribunal consisting of such persons and for such local area as it thinks fit.

(*b*) The Tribunal constituted under clause (*a*) may grant a certificate after being satisfied that—

(*i*) the plans and estimates for the new building have been properly prepared ;

(*ii*) such plans provide that the new building shall include tenements equivalent to the tenements which are proposed to be demolished. For the purpose of this paragraph, a tenement shall be deemed to be equivalent if the floor space of the tenement is not greater or less than the floor space of the corresponding tenement proposed to be demolished by more than ten per cent. ;

(*iii*) the necessary funds for the purpose of the erection of the new building are available with the landlord ; and

(*iv*) such other conditions as the State Government may by general or special order specify, have been satisfied.

(*c*) The proceedings before the Tribunal shall be in the manner as may be prescribed by rules made by the State Government in this behalf.".

Insertion of new sections 17A, 17B and 17C in Bom. LVII of 1947.

7. After section 17 of the said Act, the following new sections shall be inserted, namely :—

Recovery of possession for demolishing building.

"17A (*1*) Where a decree for eviction has been passed by the Court on the ground specified in clause (*hh*) of sub-section (*1*) of section 13 and the work of demolishing the premises has not been commenced by the landlord within the period specified in clause (*b*) of sub-section (*3A*) of the said section, the tenant may give the landlord a notice of his intention to occupy the premises from which he has been evicted and if the landlord does not forthwith deliver to him the vacant possession of the premises on the same terms and conditions on which he occupied them immediately before the eviction, the tenant may make an application to the Court within six weeks of the date on which he delivered vacant possession of the premises to the landlord.

(*2*) If the Court is satisfied that the landlord has not substantially commenced the work of demolishing the premises within the period of one month in accordance with his undertaking, the Court shall order the landlord to deliver to the tenant vacant possession of the premises on the terms and conditions on which he occupied them immediately before the eviction. On such order being made the landlord shall forthwith deliver vacant possession of the premises to the tenant. Such order shall be deemed to be an order within the meaning of clause (14) of section 2 of the Code of Civil Procedure, 1908. V of 1908.

(*3*) Any landlord who recovers possession on the ground specified in clause (*hh*) of sub-section (*1*) of section 13, and fails to carry out any undertaking referred to in clause (*a*), (*b*) or (*c*) of sub-section (*3A*) of the said section without any reasonable excuse or fails to comply with the order of the Court under sub-section (*1*) shall, without prejudice to his liability in execution of the order under sub-section (*2*), on conviction be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Tenant's right to give notice to landlord of his intention to occupy tenement in new building.

17B. Where a decree for eviction has been passed by the Court on the ground specified in clause (*hh*) of sub-section (*1*) of section 13 and the work of demolishing the premises and of the erection of a new building has been commenced by the landlord, the tenant may, within six months from the date on which he delivered vacant possession of the premises to the landlord, give notice to the landlord of his intention to occupy a tenement in the new building on its completion on the following conditions, namely :—

(*a*) that he shall pay to the landlord the standard rent in respect of the tenement :

Provided that, in respect of a residential tenement, the tenant concerned shall not be required to pay rent in relation to the area at more than double the rate at which he paid rent for his former premises, immediately before his eviction under the decree ;

(*b*) that his occupation of the tenement shall, save as provided in condition (*a*) above, be on the same terms and conditions as the terms and conditions on which he occupied the premises immediately before the eviction.

Landlord to intimate to tenant date of completion and tenant's right to occupy tenement in new building.

17C. (*1*) On receipt of notice from the tenant under section 17B, the landlord shall, not less than three months before the date on which the erection of the new building is likely to be completed, intimate to the tenant the date on which the said erection shall be completed. On the said date the tenant shall be entitled to occupy the tenement.

(2) (*a*) If the tenant fails to occupy the tenement within a period of one month from the date on which he is entitled to occupy it under sub-section (*1*), the tenant's right to occupy the said tenement under the said sub-section shall terminate and the landlord shall be entitled to recover from the tenant a sum equal to three times the amount of the monthly standard rent in respect of the tenement.

(*b*) If the landlord fails, without reasonable excuse, to comply with the provisions of sub-section (*1*) or to place the tenant in occupation of the tenement, he shall, without prejudice to his liability to place the tenant in vacant possession of the tenement, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.".

8. In section 47 of the said Act, in sub-section (*1*) after the figures "17" the figures and letters "17A, 17C," shall be inserted. Amendment of section 47 of Bom. LVII of 1947.

9. The amendments effected by section 5 of this Act shall be deemed to have come into force with effect from the 2nd May 1950. Amendments made by section 5 to have retrospective effect.

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